

House Bill 990

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia
2 Annotated, relating to the special county 1 percent sales and use tax, so as to authorize use
3 and expenditure of such tax proceeds for certain county maintenance and repair purposes;
4 to provide for procedures, conditions, and limitations; to provide an effective date; to provide
5 for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
9 relating to the special county 1 percent sales and use tax, is amended by striking Code
10 Section 48-8-111, relating to procedures for the imposition of such tax, and inserting in its
11 place a new Code Section 48-8-111 to read as follows:

12 "48-8-111.

13 (a) Prior to the issuance of the call for the referendum and prior to the vote of a county
14 governing authority within a special district to impose the tax under this part, such
15 governing authority may enter into an intergovernmental agreement with any or all of the
16 qualified municipalities within the special district. Any county that desires to have a tax
17 under this part levied within the special district shall deliver or mail a written notice to the
18 mayor or chief elected official in each qualified municipality located within the special
19 district. Such notice shall contain the date, time, place, and purpose of a meeting at which
20 the governing authorities of the county and of each qualified municipality are to meet to
21 discuss the possible projects for inclusion in the referendum, including municipally owned
22 or operated projects. The notice shall be delivered or mailed at least ten days prior to the
23 date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the
24 call for the referendum. Following such meeting, the governing authority of the county
25 within the special district voting to impose the tax authorized by this part shall notify the

1 county election superintendent by forwarding to the superintendent a copy of the resolution
2 or ordinance of the governing authority calling for the imposition of the tax. Such
3 ordinance or resolution shall specify eligible expenditures identified by the county and any
4 qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code
5 Section 48-8-115. Such ordinance or resolution shall also specify:

6 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
7 expended, which purpose or purposes may consist of capital outlay projects located
8 within or outside, or both within and outside, any incorporated areas in the county in the
9 special district or outside the county, as authorized by subparagraph (B) of this paragraph
10 for regional facilities, and which may include any of the following purposes:

11 (A) A capital outlay project consisting of road, street, and bridge purposes, which
12 purposes may include sidewalks and bicycle paths;

13 (B) A capital outlay project or projects in the special district and consisting of a
14 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
15 institution, or other detention facility; a library; a coliseum; local or regional solid waste
16 handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22,
17 as amended, excluding any solid waste thermal treatment technology facility, including,
18 but not limited to, any facility for purposes of incineration or waste to energy direct
19 conversion; local or regional recovered materials processing facilities as defined under
20 paragraph (26) of Code Section 12-8-22, as amended; or any combination of such
21 projects;

22 (C) A capital outlay project or projects which will be operated by a joint authority or
23 authorities of the county and one or more qualified municipalities within the special
24 district;

25 (D) A capital outlay project or projects, to be owned or operated or both either by the
26 county, one or more qualified municipalities within the special district, one or more
27 local authorities within the special district, or any combination thereof;

28 (E) A capital outlay project consisting of a cultural facility, a recreational facility, or
29 a historic facility or a facility for some combination of such purposes;

30 (F) A water capital outlay project, a sewer capital outlay project, a water and sewer
31 capital outlay project, or a combination of such projects, to be owned or operated or
32 both by a county water and sewer district and one or more qualified municipalities in
33 the county;

34 (G) The retirement of previously incurred general obligation debt of the county, one
35 or more qualified municipalities within the special district, or any combination thereof;

(H) A capital outlay project or projects within the special district and consisting of public safety facilities, airport facilities, or related capital equipment used in the operation of public safety or airport facilities, or any combination of such purposes;

(I) A capital outlay project or projects within the special district, consisting of capital equipment for use in voting in official elections or referendums;

(J) A capital outlay project or projects within the special district consisting of any transportation facility designed for the transportation of people or goods, including but not limited to railroads, port and harbor facilities, mass transportation facilities, or any combination thereof;

(K) A capital outlay project or projects within the special district and consisting of a hospital or hospital facilities that are owned by a county, a qualified municipality, or a hospital authority within the special district and operated by such county, municipality, or hospital authority or by an organization which is tax exempt under Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through a contract or lease with such county, municipality, or hospital authority; ~~or~~

(L) County maintenance and repair of projects described in this subsection and funded with the tax imposed under this part; provided, however, that the amount of proceeds used for such purposes under this subparagraph shall not exceed 5 percent of the total proceeds which are collected under this part by such county; or

~~(L)~~(M) Any combination of two or more of the foregoing;

(2) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the maximum period of time for which the tax may be levied shall not exceed six years;

(3) The estimated cost of the project or projects which will be funded from the proceeds of the tax, which estimated cost shall also be the estimated amount of net proceeds to be raised by the tax, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final day of the tax shall be based upon the length of time for which the tax was authorized to be levied by the referendum; ~~and~~

(4) If general obligation debt is to be issued in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the local government issuing the debt, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt; and

1 (5) If proceeds are to be expended for county maintenance and repair purposes, a good
2 faith estimate of the annual amount to be expended with respect to such purposes.

3 (b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the
4 call for an election for the purpose of submitting the question of the imposition of the tax
5 to the voters of the county within the special district. The election superintendent shall
6 issue the call and shall conduct the election on a date and in the manner authorized under
7 Code Section 21-2-540. The election superintendent shall cause the date and purpose of the
8 election to be published once a week for four weeks immediately preceding the date of the
9 election in the official organ of the county. If general obligation debt is to be issued by the
10 county or any qualified municipality within the special district in conjunction with the
11 imposition of the tax, the notice published by the election superintendent shall also include,
12 in such form as may be specified by the county governing authority or the governing
13 authority or authorities of the qualified municipalities imposing the tax within the special
14 district, the principal amount of the debt, the purpose for which the debt is to be issued, the
15 rate or rates of interest or the maximum rate or rates of interest the debt will bear, and the
16 amount of principal to be paid in each year during the life of the debt; and such publication
17 of notice by the election superintendent shall take the place of the notice otherwise required
18 by Code Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall
19 not be required.

20 (c)(1) The ballot submitting the question of the imposition of the tax authorized by this
21 part to the voters of the county within the special district shall have written or printed
22 thereon the following:

23 '() YES Shall a special 1 percent sales and use tax be imposed in the special district
24 of _____ County for a period of time not to exceed _____ and for the
25 () NO raising of an estimated amount of \$ _____ for the purpose of
26 _____?'

27 (2) If debt is to be issued, the ballot shall also have written or printed thereon, following
28 the language specified by paragraph (1) of this subsection, the following:

29 'If imposition of the tax is approved by the voters, such vote shall also constitute
30 approval of the issuance of general obligation debt of _____ in the principal amount
31 of \$ _____ for the above purpose.'

32 (3) If the tax is to be imposed in part for county maintenance and repair purposes, the
33 ballot shall have written or printed thereon, following the language specified by
34 paragraph (2) of this subsection, the following:

1 'If imposition of the tax is approved by the voters, such vote shall also constitute
2 approval of the annual expenditure of approximately \$ for county maintenance
3 and repair purposes .'

4 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
5 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
6 favor of imposing the tax then the tax shall be imposed as provided in this part; otherwise
7 the tax shall not be imposed and the question of imposing the tax shall not again be
8 submitted to the voters of the county within the special district until after 12 months
9 immediately following the month in which the election was held; provided, however, that
10 if an election date authorized under Code Section 21-2-540 occurs during the twelfth month
11 immediately following the month in which such election was held, the question of
12 imposing the tax may be submitted to the voters of the county within the special district on
13 such date. The election superintendent shall hold and conduct the election under the same
14 rules and regulations as govern special elections. The superintendent shall canvass the
15 returns, declare the result of the election, and certify the result to the Secretary of State and
16 to the commissioner. The expense of the election shall be paid from county funds.

17 (e)(1) If the proposal includes the authority to issue general obligation debt and if more
18 than one-half of the votes cast are in favor of the proposal, then the authority to issue such
19 debt in accordance with Article IX, Section V, Paragraph I or Article IX, Section V,
20 Paragraph II of the Constitution is given to the proper officers of the county or qualified
21 municipality within the special district issuing such debt; otherwise such debt shall not
22 be issued. If the authority to issue such debt is so approved by the voters, then such debt
23 may be issued without further approval by the voters.

24 (2) If the issuance of general obligation debt is included and approved as provided in this
25 Code section, then the governing authority of the county or qualified municipality within
26 the special district issuing such debt may incur such debt either through the issuance and
27 validation of general obligation bonds or through the execution of a promissory note or
28 notes or other instrument or instruments. If such debt is incurred through the issuance of
29 general obligation bonds, such bonds and their issuance and validation shall be subject
30 to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in
31 this part. If such debt is incurred through the execution of a promissory note or notes or
32 other instrument or instruments, no validation proceedings shall be necessary and such
33 debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically
34 provided otherwise in this part. In either event, such general obligation debt shall be
35 payable first from the separate account in which are placed the proceeds received by the
36 county or qualified municipality within the special district issuing such debt from the tax

1 authorized by this part. Such general obligation debt shall, however, constitute a pledge
2 of the full faith, credit, and taxing power of the county or qualified municipality within
3 the special district issuing such debt; and any liability on such debt which is not satisfied
4 from the proceeds of the tax authorized by this part shall be satisfied from the general
5 funds of the county or qualified municipality within the special district issuing such debt."

6 **SECTION 2.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law
8 without such approval, and shall apply with respect to taxes imposed or to be imposed under
9 resolutions or ordinances adopted on or after that date.

10 **SECTION 3.**

11 All laws and parts of laws in conflict with this Act are repealed.